



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2018-0078; FRL-9991-94-Region 4]

#### Air Plan Approval; North Carolina; Miscellaneous Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve changes to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), through letters dated April 4, 2017, August 22, 2017, and September 28, 2018. These SIP revisions make amendments, most of which are structural and minor, to North Carolina's source testing rules.

This action is being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule will be effective **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2018-0078. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management

Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Through letters dated April 4, 2017, August 22, 2017, and September 28, 2018, the State of North Carolina, through NCDEQ, submitted three SIP revisions for EPA approval.<sup>1</sup> These SIP revisions include structural amendments to 15A North Carolina Administrative Code (NCAC) 02D Section .0501 – *Compliance with Emission Control Standards*, and typographical amendments to 15A NCAC 02D Section .0536 – *Particulate Emissions from Electric Utility Boilers*.<sup>2</sup> Additionally, the SIP revisions incorporate, for primarily structural and organizational

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<sup>1</sup> EPA received the SIP revisions on April 28, 2017, September 6, 2017, and October 10, 2018, respectively.

<sup>2</sup> In the table of North Carolina regulations federally-approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as "Subchapter 2D Air Pollution Control Requirements."

reasons, four new rules: 15A NCAC 02D Sections .2609 – *Particulate Testing Methods*, .2610 – *Opacity*, .2611 – *Sulfur Dioxide Testing Methods*, and .2617 – *Total Reduced Sulfur*. EPA has determined that a number of these changes to the North Carolina SIP are either structural or minor and ministerial and do not alter the meaning of any SIP provisions. EPA has also determined that all other changes are SIP-strengthening, and that all are consistent with federal regulations regarding source testing and are approvable pursuant to section 110 of the CAA.

The changes to the North Carolina SIP that are the subject of this final rulemaking, as well as EPA’s analysis of the changes and rationale for approving them, are described in further detail in a notice of proposed rulemaking (NPRM) published on February 12, 2019 (84 FR 3381). Comments on the NPRM were due on or before March 14, 2019. EPA received no relevant comments on the proposed action. EPA is now taking final action to approve these revisions.

## **II. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference under Subchapter 2D, of North Carolina’s SIP, Sections .0501 – *Compliance with Emission Control Standards*, .0536 – *Particulate Emissions from Electric Utility Boilers*, .2609 – *Particulate Testing Methods*, .2610 – *Opacity*, .2611 – *Sulfur Dioxide Testing Methods*, and .2617 – *Total Reduced Sulfur*, all state effective June 1, 2008. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved

by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>3</sup>

### **III. Final Action**

EPA is approving North Carolina's April 4, 2017, August 22, 2017, and September 28, 2018, SIP revisions. Specifically, EPA is approving, under Subchapter 2D of the North Carolina SIP, the addition of new Sections .2609, .2610, .2611, and .2617, as well as amendments to existing Sections .0501 and .0536. EPA is approving these SIP revisions because the Agency has determined that they are consistent with the CAA and will not interfere with attainment or maintenance of any NAAQS, reasonable further progress, or any other applicable requirement.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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<sup>3</sup> *See* 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 29, 2019.

Mary S. Walker,  
Acting Regional Administrator,  
Region 4.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

**Subpart II—North Carolina**

2. Section 52.1770(c)(1) is amended in the table under “Subchapter 2D Air Pollution Control Requirements” by:

a. Revising the entries for “Section .0501” and “Section .0536”; and

b. Adding entries, in numerical order, for “Section .2609”, “Section .2610”, “Section .2611”, and “Section .2617”.

The revisions and additions read as follows:

**§ 52.1770 Identification of plan.**

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(c) \* \* \*

**(1) EPA APPROVED NORTH CAROLINA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Subchapter 2D Air Pollution Control Requirements</b>				
**	**	*	*	*
<b>Section .0500 Emission Control Standards</b>				
Section .0501	Compliance with Emission Control Standards	6/1/2008	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	

**	**	*	*	*
Section .0536	Particulate Emissions from Electric Utility Boilers	6/1/2008	[Insert date of publication in <u>Federal Register</u> ]. [Insert citation of publication]	
**	**	*	*	*
<b>Section .2600 Source Testing</b>				
**	**	*	*	*
Section .2609	Particulate Testing Methods	6/1/2008	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
Section .2610	Opacity	6/1/2008	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
Section .2611	Sulfur Dioxide Testing Methods	6/1/2008	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
**	**	*	*	*

Section .2617	Total Reduced Sulfur	6/1/2008	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
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[FR Doc. 2019-06882 Filed: 4/8/2019 8:45 am; Publication Date: 4/9/2019]